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ABSTRACT

This study used ethnographic research methods to generate hypotheses about the exercise of administrative discretion on secondary school discipline. The study, an organizational case study, investigated the exercise of discretion by the school disciplinarians in Integrated High in Chicago.
Participant-observation, focused interviews, and administrative statistics yielded the data. Simple statistical analysis of the quantitative data yielded three hypotheses about the pattern of selective enforcement--(1) the more prominent the discipline administrator's concern with order-maintenance (control), the greater the likelihood students will be suspended; (2) the more prominent the discipline administrator's concern with individual treatment, the greater the likelihood students will be treated leniently and not suspended; and (3) boys, posing as they seem to do a greater threat to the security and good order of the school, will be suspended systematically more frequently than girls. Analysis of quantitative data yielded rudimentary analogue models of the exercise of discretion by each administrator. Each model consists of a set of hypotheses stated verbally and diagrammatically. All hypotheses are grounded in data. (Author/IRT)

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# "The Exercise of Administrative Discretion in Secondary School Discipline: Grounded Hypotheses."*

Michael E. Manley-Casimir

[This study used ethnographic research methods to generate hypotheses about the exercise of administrative discretion in secondary school discipline. The study, an organizational case study, investigated the exercise of discretion by the school disciplinarians in Integrated High in Chicago. Participant-observation, focused interviews and administrative statistics yielded the data. Simple statistical analysis of the quantitative data yielded three hypotheses about the pattern of selective enforcement. Analysis of quantitative data yielded rudimentary analogue models of the exercise of discretion by each administrator. Each model consists of a set of hypotheses stated verbally and diagrammatically. All hypotheses are grounded in data. The author is Assistant Professor and Director of Graduate Studies in the Faculty of Education, Simon Fraser University.]

## The Problem of Administrative Discretion

The exercise of discretion, usually viewed as the use of judgment in making a choice among alternative courses of action, pervades administrative life. Administrators in all walks of life from presidents of corporations to school disciplinarians exercise their discretion as they go about their daily activities. As Gulick (1933:61) notes:

> *It is impossible to analyze the work of any public employee from the time he steps into his office in the morning until he leaves it at night without discovering that his every act is a seamless web of discretion and action. It is impossible to discover any position in government service, or in any other service for that matter, in which the element of discretion is absent except in the purely mechanical operations which will doubtless in time be entrusted to machines. What we have in administration is a continual process of decision-action-decision-action, like a man running after a high-batted ball.*

Discretion is vital to administrative decision-making, especially in circumstances where experience together with existing policy and rules are inadequate or inappropriate guides to action. In these circumstances the exercise of discretion is both necessary and desirable because it allows both administrative flexibility and responsiveness, thus providing the creative element in administrative action.

The exercise of discretion, however, poses a problem that derives from the Janus-like character of discretion itself. Even though in ordinary usage the

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word "discretion" has a positive connotation, an administrator (like a school disciplinarian) can use discretion either benevolently or malevolently, reasonably or unreasonably, justly or unjustly. The task facing both the administrative theorist and the practicing administrator is to reconcile the need to exercise discretion with the ethical principle that such exercise be just. It is by its nature a "practical" task--concerned with choice, action and defensible decisions (Schwab 1969:1-2). More specifically, the task is limiting the scope and exercise of discretion in such a way as to preserve administrative flexibility while simultaneously creating safeguards to protect the individual against arbitrariness and injustice.

Clearly, the problem of administrative discretion has both descriptive and normative/prescriptive dimensions. As Keith-Lucas (1957:41) observes:

> *It is necessary not only to know to what influences, controls, or other impersonal factors an administrative official is actually responsive, but to what he should be responsive, and how this responsiveness can be made effective, if there is to be a minimum of arbitrary decision.*

The study of administrative discretion demands examination of questions relating to both dimensions.

In schools, the problem of discretion is particularly evident in the area of student discipline. The doctrine of in loco parentis confers a wide latitude of discretionary power upon school officials to discipline students. Not only are school officials expected to use their discretion in matters of formal pedagogy, they are also granted the authority to regulate and control student conduct. In effect, administrators and teachers are authorized to act as parental surrogates while the child is under the school's jurisdiction. To achieve this end, school officials are empowered to exercise wide discretion

in making and enforcing rules and regulations.

Even a cursory glance at the published work reveals that *how* school officials exercise their discretion on a day-to-day basis in the administration of student discipline has not been investigated. The study reported here in part (Manley-Casimir:1976) was designed to explore this precise aspect of administrative behavior--the exercise of discretion by school disciplinarians in day-to-day discipline cases. The study employed the conceptual framework of discretionary justice (Davis:1969)--a framework from administrative law that accommodates both the descriptive and the normative/prescriptive dimensions of the problem of discretion in school discipline.

## Discretionary Justice

The concept of discretionary justice accommodates the exercise of discretionary power by an administrator in terms of the substantive and procedural fairness evidenced in the disposition of a problem involving another individual.

> *Without trying to draw precise lines, this essay [discretionary justice] is concerned primarily with a portion of discretionary power and with a portion of justice--with that portion of discretionary power which pertains to justice, and with that portion of justice which pertains to individual parties. (Davis, 1969:5-6)*

Applied to the administration of discipline in the public school, this approach directs attention to the exercise of discretionary power by a school disciplinarian in terms of the justice dispensed to individual students.

Conceptualizing student discipline in this way is appropriate for three reasons. First, school officials possess and exercise extensive discretionary power over a wide range of student behavior; students on the other hand are substantially impotent and thus vulnerable to arbitrariness resulting from the

improper use of discretionary power. Second, discipline is usually dispensed on a one-to-one basis in a closed context, i.e. one administrator deals with one student in a closed office; this increases the possibility of inconsistency and arbitrariness, thereby making the question of justice materially relevant. Third, school discipline is usually enforced through a system of rules and sanctions. Generally, rules are viewed as one end of a rules-discretion continuum. The more rules and the more specific the rules, the less the discretionary power available for exercise.

Constituent Concepts

The constituent concepts of discretionary justice are the separate notions of "discretion" and "justice". "Discretion" includes the related notions of choice and judgment. When an individual exercises his discretion, he makes a *choice* between alternative courses of action--the choice includes the possibility of inaction or deferring action until a later date; and he uses his *judgment* in the choice-making process--ideally his choice is not wanton, arbitrary or capricious because he uses 'good' or his 'best' judgment. Administrators exercise good judgment when they act "... in such a way that their reasoning could afterward be examined and found defensible." (Friedrich, 1958:44) In other words, discretion is responsibly exercised not only when the administrator takes into account the relevant considerations and not only when he can elaborate reasons for his choice of a particular course of action *but when the reasons themselves are defensible*. Where the reasons themselves are not defensible, then the action taken may be considered the arbitrary abuse of power. Thus the crucial aspect of the exercise of discretion is the *basis* upon which the decision is made.

Justice is intimately related to the exercise of discretion. Here *justice* means the 'fairness' which Rawls advocates. Justice involves "... the elimination of arbitrary distinctions and the establishment, within the structure of a practice, of a proper balance between competing claims." (Rawls, 1969:133) Inherent in the concept of a "practice" is the notion that individuals who are similarly situated should be treated similarly. Equal treatment extends both to the substantive and procedural dimensions of justice.

Substantively, justice appears to be related to the exercise of discretion in at least two important ways: first, in terms of the defensibility of the basis or the reasons underlying the selection of a particular course of action; and second, in terms of the defensibility of the course of action taken when considered in the light of prevailing practices and standards. Procedurally, justice is involved in the exercise of discretion in terms of the degree to which due consideration is given to the rights and interests of the affected party as evidenced in the procedures used at all stages in the determination of the course of action and the defensibility of these procedures. Clearly, assessing the defensibility of a discretionary action is difficult, especially since practices and standards tend to vary from place to place and to change from time to time. However, a solution to this difficulty is to assess the defensibility of any given course of action in terms of legal standards and educational considerations.

Three other concepts are integral to discretionary justice: they are the notions of confining, structuring and checking discretionary power. Confining discretionary power means locating the boundaries of discretionary action and insuring that discretion is exercised only within these limits. Structuring discretionary power means controlling the way in which discretionary power is

exercised within the designated limits. Checking the exercise of discretionary power involves the correction of arbitrariness or illegality.

## Method

How, then, do school disciplinarians exercise their discretion in discipline cases? To answer this question (among others) I conducted an exploratory study of the administration of discipline in Integrated High School in Chicago. As an avowedly exploratory study, the design was cast as an organizational case-study using participant observation; this seemed compatible with the intent to generate insights, knowledge and hypotheses about the exercise of administrative discretion in school discipline.

Integrated High, as its pseudonym implies, is an integrated high school (41 per cent black, 58 per cent white) with a socio-economically heterogeneous student body. Two disciplinarians administer discipline: Mr. Foster, white, is responsible for boys referred to the discipline office; Mrs Stanbury, black, is responsible for girls.

The school has a highly developed discipline system and policy. Offences, procedures and penalties are clearly specified and form an impressively articulated and coherent structure. At the heart of the policy is the distinction between a *minor* and a *major* offence. Minor disciplines are, as their designation implies, written for mundane, minor infractions. Major disciplines, in contrast, are written for serious offences like breach of school rules particularly those involving the safety of other students or behavior that challenges the authority of the adults in the school. A student receiving a major discipline is automatically and immediately referred to Mr. Foster or Mrs. Stanbury in the discipline office. In this study students receiving major disciplines are defined as trouble-cases; the set of trouble-cases occurring during the academic year 1970-1971

constitute the population for the study. The trouble-case is therefore the unit of analysis.

Data collection occurred from mid-March to the beginning of June 1971. Data were of three kinds: documentary materials and administrative file data, observational data, and focused interview data. Administrative files contained data on all the students receiving major disciplines since September 1970. These data seemed worth analyzing to provide an overall perspective on the administration of discipline and, more particularly, to reveal patterns and relationships illuminating the exercise of discretion by Mr. Foster and Mrs. Stanbury. A fifty percent systematic sample of these trouble-cases yielded 152 usable cases; background data on the students and complainants involved in these cases were obtained from other sources in the school and assembled with the trouble-case data to provide a complete socio-economic profile of students and complainants. These then served as independent variables in the first stage of analysis, the "action taken" by the disciplinarian expressed in terms of non-suspension/ suspension being the dependent variable.

The second major set of data were obtained from focused interviews with Mr. Foster and Mrs. Stanbury in a sample of trouble-cases. The purpose of these interviews was to elicit details of the factors affecting and the reasons governing the selection of the course of action in the particular incident. The sample of trouble-cases (12 with each disciplinarian) were selected on a combination of bases. First, they were all drawn from trouble-cases occurring during the week of April 19. Second, the major referral form was inspected to get some feel for the gravity of the offence. Third, care was taken to include incidents involving both boys and girls, black and white. Fourth, incidents were selected as they happened because they appeared to be "interesting"; that

is, they seemed to possess features that distinguished them in terms of the focus of the study. Finally, being both the observer and interviewer I was unable to observe or follow-up more than one referral at exactly the same time; this resulted in choices between incidents sometimes being made on an expedient and pragmatic basis.

This procedure is open to criticism on methodological grounds. No generalizations may be made from these data even though the findings may be replicated in subsequent studies. The problems of representativeness of cases and bias in selection are real and acknowledged. The real test is whether, given the exploratory nature of this study, the analysis of these data yields new knowledge, generates new concepts and explanations and identifies new facets of the problem for further research.

## Discretion in Discipline Decisions

To appreciate the actual exercise of discretion first requires an understanding of the role of discretionary power in the discipline system at Integrated High. Analysis of documents and observational data shows that statute and board policy confer substantial legal discretion upon the principal, Dr. Young; discretion that is, however, largely unconfined, unstructured and unchecked. It shows that, in the years immediately preceding the study, the discipline system at Integrated High had evolved through three stages; from a system using unfettered discretion to one with written guidelines mechanically applied and finally to the recognition of the need for the enforcement of rules with discretion. The analysis further shows that Dr. Young's delegation of discretionary power to Mr. Foster and Mrs. Stanbury was more a process of gradual devolution than explicit delegation--Dr. Young gradually devolved more

discretionary power upon Mr. Foster and Mrs. Stanbury as they gained experience and demonstrated competence in handling discipline cases. It shows that Mr. Foster and Mrs. Stanbury exercise their discretionary power at several decision points in the discipline process but most prominently in deciding whether to suspend a student and if so, for how long. And finally, it shows that there is no systematic concern in Integrated High with confining, structuring and checking Mr. Foster and Mrs. Stanbury's discretionary power.

## Selective Enforcement

With this background it is now possible to consider the actual exercise of discretion by Mr. Foster and Mrs. Stanbury in the day-to-day administration of discipline at Integrated High. The analysis of administrative statistics demonstrates the existence and persistence of a pattern of sex-linked selective enforcement.

[Table 1 here]

Table 1 shows this pattern clearly: Mr. Foster suspends boys receiving major disciplines significantly more often than Mrs. Stanbury suspends girls. Further analysis shows that, for Mr. Foster, the complainant's level of education and complainant intercession are the only independent variables used in this study that are significantly related to the likelihood of suspension. But even so the pattern of selective enforcement persists. What is noteworthy, however, is that neither the race of the student, their grade year, their level of scholastic ability, or their perceived social class systematically affect the exercise of discretion; other than the complainant's level of education and complainant intercession only the single factor of sex seems to have any systematic effect.

The pattern of selective enforcement is directly related both to the particular administrator and to the sex of the student. Mr. Foster suspends boys significantly more often than Mrs. Stanbury suspends girls. This suggests that Mr. Foster does not use the discretionary power of leniency to the same extent as does Mrs. Stanbury. This bias in enforcement penalizes boys by treating them more severely and favors girls by treating them more leniently.

In general, this pattern of selective enforcement persists even when other factors are taken into account. The analysis of student characteristics shows that the race, grade year, level of scholastic ability and perceived social class of the student do not affect the pattern of selective enforcement. Similarly, neither the number of the major, the gravity of the offence nor the pattern of single to multiple offences affect the pattern. The analysis of complainant characteristics shows that sex, race, and years of experience at Integrated High do not affect the pattern but the educational level of the complainant has a statistically significant effect on the pattern of selective enforcement as far as Mr. Foster is concerned, but not for Mrs. Stanbury, although the same relationship is evident for her. The most potent factor, however, is complainant intercession which again has a statistically significant effect on the pattern of selective enforcement for Mr. Foster but not for Mrs. Stanbury. The data for Mrs. Stanbury indicate the same relationship but, probably due to her normal leniency it is not statistically significant. The following propositions summarize the significant findings of the analysis:

1. *Mrs. Stanbury suspends girls receiving major disciplines significantly less frequently than Mr. Foster suspends boys receiving major disciplines.*

2. *There is a significant, positive relationship between the likelihood of suspension for boys by Mr. Foster and the complainant's level of education.*

3. *There is a significant, inverse relationship between the likelihood of suspension for boys by Mr. Foster and complainant intercession.*

The persistence of the pattern of selective enforcement is important for three reasons. First, although the complainant's level of education and complainant intercession begin to explain the differential rate of suspension between Mr. Foster and Mrs. Stanbury, these variables do not account for the entire pattern. Other factors must therefore operate to result in the widely different enforcement practices between these two administrators. Second, although they differ in rates of suspension, each seems to be consistently different; that is, Mr. Foster appears to be consistent in his treatment of boys and Mrs. Stanbury appears to be consistent in her treatment of girls. This suggests that explanations of their enforcement practices may derive from differences in their values and attitudes towards students and towards discipline. Third, the existence of sex-linked selective enforcement in the administration of discipline at Integrated High raises the question of justice. Is selective enforcement just or unjust? Davis points out that "(s)elective enforcement obviously may be just or unjust depending upon how the selections are made." (Davis, 1969:167) The critical factor is the basis of a particular decision--the "conscious choice" of the administrator in selecting one course of action rather than another.

## Bases of Decisions

Upon what bases then do Mr. Foster and Mrs. Stanbury make their decisions? The second stage of analysis seeks to develop a more complete explanation through a case-by-case analysis of the trouble-cases selected for intensive investigation. The analytic approach deserves special comment. Given the

limitation of the small number of cases it is clearly indefensible to try to create a conceptual model generalizable to other situations and administrators. It is, however, permissible to develop a conceptual model consisting of testable hypotheses rather than generalizable relationships.

The approach used here is consistent with these concerns. The purpose is to create analogue models of the bases of decisions made by Mr. Foster and Mrs. Stanbury.

> *An adequate analogue model will manifest a point-by-point correspondence between the relations it embodies and those embodied in the original: every incidence of a relation in the original must be echoed by a corresponding incidence of a correlated relation in the analogue model. (Black, 1962:222)*

The creation of an analogue model is an appropriate task for this analysis. Black's distinction that "[a]nalogue models furnish plausible hypotheses, not proofs" (Black, 1962:223) lies at the heart of this analysis. Cast in an exploratory vein, it finds its success and value in generating new concepts, specifying plausible hypotheses and formulating reasonable explanations. What follows is an attempt to do this for Mr. Foster and Mrs. Stanbury in terms of the bases of their decisions.

Mr. Foster: Decisional Premises

Mr. Foster's beliefs about cause and effect in the discipline process are of three main types. The first is his belief in the deterrent value of punishment, reflected in these unsolicited comments:

Mr. Foster: Suspensions never help a student individually. I guess it's more of a threat than anything else. He does know we mean business.

If there isn't some threat of penalty over extreme cases then the school will fall apart.

If we let the students think they have a right to carry and pull knives on other students then we're headed for trouble.

These statements explicitly recognize the deterrent effect of suspension. The last two statements, however, go beyond this in their implication that the school must keep control of the student body lest major disruptions develop. This foreshadows the second of Mr. Foster's premises--his concern with the general welfare of the school as an institution.

Interviewer: What did you hope to achieve by invoking the maximum sanction allowable both by the rules of the Board of Education and by school policy?

Mr. Foster: You mean help for that young man? None at all. This was a decision made, I think, for the school itself. ... I believe that type of student is a danger to the health and welfare of the student body. So you're not helping him one bit by throwing him out of school or suspending him for twenty days.

What appears to influence Mr. Foster's decision is the extent of the danger or the threat posed to the school itself. The impression conveyed by this comment is that Mr. Foster sees his role in terms of order maintenance: essentially an institutional perspective. He is certainly aware of the personal or idiographic dimension of the administration of discipline as the following unsolicited comment attests:

Mr. Foster: If you don't follow policy, then you have to use personal judgment--that leaves you open to charges of prejudice, but I think you have to do so to allow room for the human element.

Despite this affirmation of the need for discretion in individual cases, the data suggest that Mr. Foster's primary concern is with institutional order-maintenance.

This emphasis is especially evident in the third of Mr. Foster's decisional premises: his commitment to supporting the teacher's authority regardless of circumstances. Mr. Foster's belief in an practice of supporting the teachers' authority lies behind his preparedness to respect the wishes of

the complainant regarding the final disposition of the trouble-case.

> I respect the integrity, I'm saying this because she is a rather elderly woman. I don't think she's senile in any way. In other words in my mind I did side one hundred percent with the teacher on the story she was telling; and I did have to choose, and the parent knew I had to choose, and the parent of course got extremely mad when she heard my choice. (Emphasis added.)

What is instructive here is that even when he knows the teacher is a poor disciplinarian, he still supports her authority. In instances where the teacher's own authority is in question--then he comes down most firmly in their support. He must for he is the teacher's last resort.

Mr. Foster: Student Dimension

Mr. Foster also brings to his task considerable knowledge about the school and its community, teachers and their effectiveness, students and their family backgrounds. This knowledge provides a baseline of information about a particular student--information Mr. Foster draws upon as he begins the process of handling a trouble-case. The data suggest that Mr. Foster makes three major judgments about the student: he assesses the student's culpability, credibility and educational commitment.

Mr. Foster's assessment of student culpability seems to involve three variables: the student's previous discipline record, attitude and intent. In all the observed trouble-cases Mr. Foster consulted the student's discipline file to ascertain his previous discipline record. By itself it does not seem to determine whether or not Mr. Foster suspends a student. It does, though materially influence the duration of a suspension, if the final decision is to suspend. In some cases there are hints that the student's attitude and intent enter Mr. Foster's consideration. Together with previous discipline record

they in part contribute to Mr. Foster's assessment of student culpability but their effect is weak compared to the potency of other factors like the character of the offence itself.

Assessment of the credibility of the student's story seems to depend on two variables: the presence of an adult witness and the inherent reasonableness of the student's version. The importance of the adult witness is most prominent in one particular case where Mr. Foster repeatedly notes the lack of an adult witness to a potentially dangerous fight.

> Mr. Foster: Since there was no adult witness to the fight and in most students' eyes, it wasn't even a fight, it looked to me like a misjudgment ....

The implication here is that, had an adult witnessed the fight, Mr. Foster would have had a more reliable and credible source of information than he did, forced, as he was, to rely on the stories of student witnesses. Related to the question of adult corroboration of the incident in determining credibility is the essential reasonableness of the student's version.

> Mr. Foster: Basically the boy with the knife was charged with possession of an illegal weapon and the follow-up charge was that he carried and took the weapon out in a threatening manner and used the knife to cut the other student across the face. We felt he acted without sufficient provocation even to justify this type of action. The student's defence of his action was that he was using it in self-defence because this guy was supposedly a karate expert ... But I think it's just kid's talk. And besides to me it sounded more like a way of trying to justify why he did what he did.

Evidently the student's justification for pulling and using a knife on another student is unreasonable and indefensible on its face. The interview data show Mr. Foster's concern with the reasonableness of the student's story in five separate cases.

The third judgment Mr. Foster makes concerns the student's educational

commitment. He does this by looking for signs of improved behavior and academic application. Evidence a student is making a conscious effort to improve his behavior gives Mr. Foster grounds to exercise his discretionary power of leniency.

Mr. Foster: I said normally, by going by the book, he should be on a fifteen or twenty day suspension considering his entire past record.... I figured anybody who can go from six or seven major disciplines down to the next year with four, and this year with two, is improving and I figured I ought to take this into consideration. So I figured a five day suspension was fair.

Evidence from three cases shows that Mr. Foster also considers the student's academic application as an indicator of commitment and is more likely to exercise his discretionary power of leniency on behalf of such a student.

This analysis generated three plausible hypotheses:

1. *The more extensive a student's previous discipline record, the greater the likelihood of a longer suspension.*
2. *The more unreasonable the student's story, the less credibility ascribed to it, particularly in the absence of adult corroboration, the greater the likelihood of suspension.*
3. *The greater the student's educational commitment, defined in terms of improved behavior and academic application, the greater the likelihood of leniency in determining the duration of the suspension.*

Complainant Dimension

The wishes of the complainant (intercession) operate as a potent determinant of action for Mr. Foster. His preparedness to accede to the complainant's wishes seems to be directly related to his commitment to support the complainant's authority and more particularly to the complainant's perceived control effectiveness. Evidence from five trouble-cases supports this observation.

In one case Mr. Foster supported a teacher's wishes because he considered her as a conscientious and capable teacher, career-oriented, with a great deal

to offer students in the area of biological sciences. Since she seldom wrote major disciplines and since he perceived her as having good control effectiveness he was quite prepared to respect her wishes in not suspending the student. In another case, however, Mr. Foster *reluctantly* accedes to the complainant's wishes because he perceives the complainant as having poor control effectiveness. Finally, in yet another case Mr. Foster refuses to accede to a particular teacher's request for clemency because the complainant was a weak disciplinarian who undermined his own classroom authority and the integrity of the enforcement system by issuing major disciplines and then interceding on behalf of the student and withdrawing the major. On the basis of this analysis the following hypothesis seems plausible:

1. *The better the perceived control effectiveness of the complainant the more likely the complainant's wishes will be respected in deciding whether or not to suspend a student.*

Offence Dimension

The key feature of the offence influencing Mr. Foster's decision is the gravity of the offence. The gravity or potential gravity of the offence is most prominent in a case where a student pulls and uses a knife on another student. Although the student was not seriously injured the potential for a very serious and possibly fatal injury existed. So, after consulting with the principal, Mr. Foster invoked the full twenty day suspension. This analysis suggests the following hypothesis may be plausible:

1. *The more culpable the student as measured by the gravity of the offence, the greater the likelihood of suspension.*

Figure 1 incorporates the essential features of the preceding analysis and shows the hypothesized relationships in Mr. Foster's exercise of discretion.

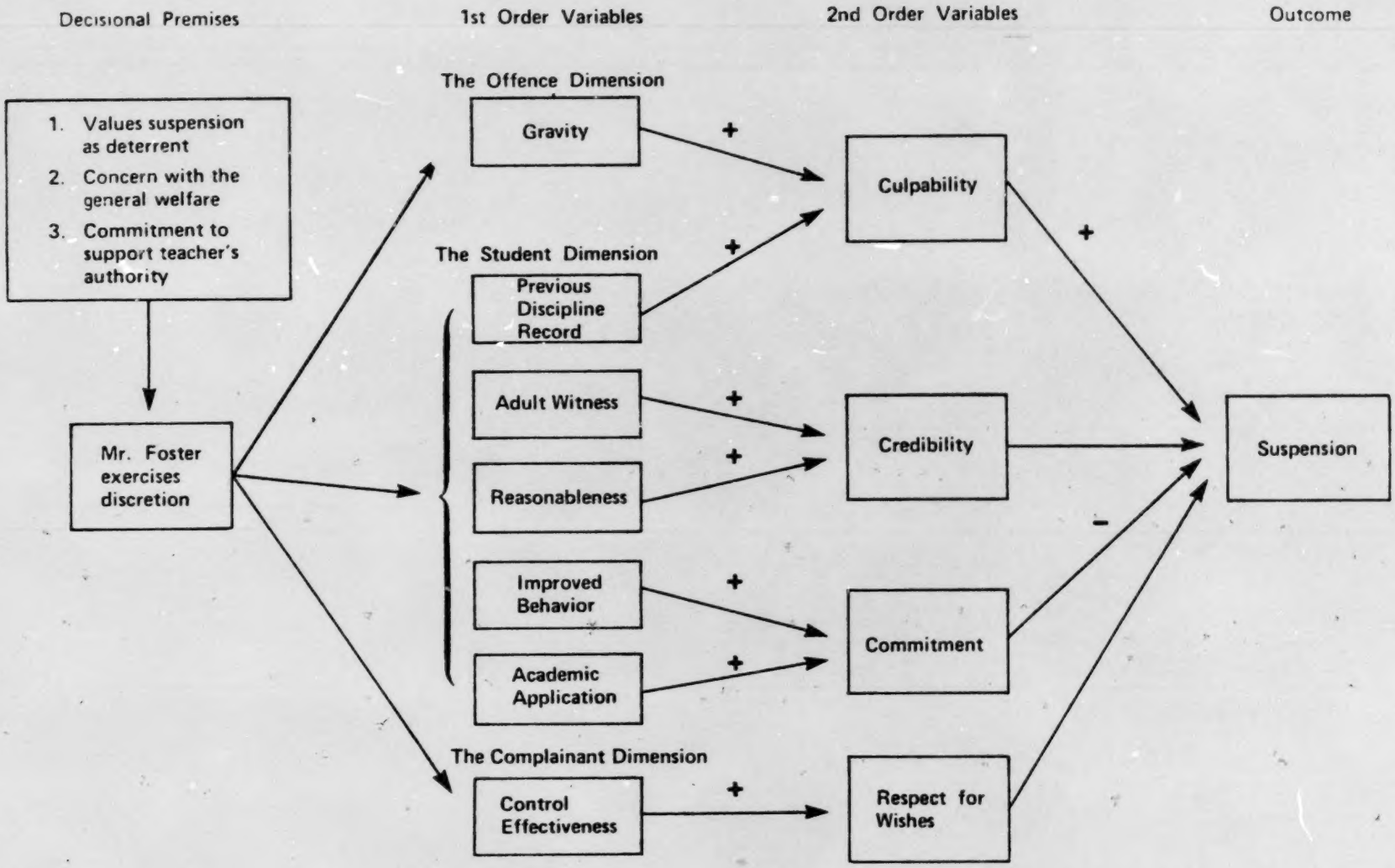


Figure 1: Model of Hypothesized Relationships in Mr. Foster's Exercise of Discretion

The model is, by its, nature, designed to raise questions for subsequent testing. Some of the hypotheses, due to data limitations, may not withstand critical scrutiny or verification; still they seem sufficiently plausible to justify their inclusion.

Mrs. Stanbury: Decisional Premises

Three major decisional premises seem evident in Mrs. Stanbury's administration of discipline at Integrated High. The first premise, evident in three trouble-cases, is Mrs. Stanbury's belief in the deterrent value of punishment:

Interviewer: In the context then, of this minor, what purpose do you see the three day suspension serving?

Mrs. Stanbury: To reinforce on L_____ that he cannot show belligerence to a teacher... I'm not too much in favor of the exclusion, but there's nothing else. I felt if it had gone on--this bullying attitude--and if nothing was done when he was actually caught, then he would continue.

The second and closely related premise runs like a thread through all the trouble-cases but is most prominent in two; it involves Mrs. Stanbury's recognition of the need to respond to the normative expectations of teachers that she uphold their authority.

Interviewer: How did the conference go?

Mrs. Stanbury: As expected. The student apologized, and the teacher accepted the apology. I think she (the student) was a little dissatisfied because she really didn't think she had done anything wrong. But we must maintain this idea that the teacher must rule her classroom.

Interviewer: When you say "we" to whom do you refer?

Mrs. Stanbury: The administration, the establishment, something of that nature....

The emergence of the normative expectations of the teachers as one of Mrs. Stanbury's decisional premises confirms Becker's observations about the

significance of these expectations in the school. (Becker, 1965:246)

The third premise is reflected in Mrs. Stanbury's concern with maintaining the integrity of the enforcement process and is evident in three trouble-cases. She recognizes the need to establish and maintain the credibility of the discipline system in the eyes of students and teachers--essentially a system maintenance concern. Indeed her commitment to maintain the integrity of the enforcement system is such that on occasion she overrules the recommendation of teacher in the interests of the discipline system and of preventing further erosion in the teacher's already weak authority.

Mrs. Stanbury; Student Dimension

Mrs. Stanbury makes two main judgments about the students referred to her: she assesses the culpability of the student and the cost of suspension to the student. Assessment of student culpability seems based on the student's previous discipline record, attitude and intent.

After reading the major to grasp the general features of the case, the next step is always to check the student's discipline record. Mrs. Stanbury does this to establish a perspective on the student but the previous discipline record is not by itself a crucial determinant of action. Similarly the student's attitude, while important is not an independent determinant of action.

The most potent of these judgmental factors is Mrs. Stanbury's assessment of student intent. One case involved the alteration of a report card letter grade.

Mrs. Stanbury: The student admitted changing the red F and gave no particular reason except that she was sitting doodling and she hated her mother to see this red F glaring her in the face (a bit of a laugh in her voice). She could have changed the F to an A by the drawing of one

line. She didn't. We can only conclude from this that she had no definite intent to actually misrepresent her failure. Just soften it a little.

Interviewer: Presumably, had the intent been there and had it been changed to an A, this would have been considered a more serious offence?

Mrs. Stanbury: Oh yes! Even though this is technically forgery, if the grade had been changed it would have been actually forgery and that student would have ended up with a double major and a five day suspension.

Mrs. Stanbury's exercise of the discretionary power of leniency appears directly related here to her assessment of the student's intent. The student's intent thus seems to be the most potent variable influencing Mrs. Stanbury's assessment of culpability. On the basis of this analysis the following hypothesis seems plausible:

1. *The more extensive a student's previous discipline record and the more malicious her intent, the greater the likelihood of the student being considered culpable and so suspended from school.*

Mrs. Stanbury also considers the cost of suspension to the student both in terms of educational need and social vulnerability. In three cases Mrs. Stanbury's concern with the student's educational need caused her to be lenient. In one case, she reduced the suspension to five days because of the educational cost to the student of a longer suspension. In another, she did not suspend at all to keep the student in school. And in a third, she considered the student's sixteen day absence from school as sufficiently damaging to the student's education that further suspension was unwarranted.

Related to educational need is Mrs. Stanbury's concern with the social vulnerability of students particularly those classed as Educable Mentally Handicapped (EMH). Speaking of EMH students Mrs. Stanbury observed:

We avoid suspension at all costs. There are two reasons for

> this: first, because the student is not used to an academic situation; second, because this student is more inclined to be taken advantage of. Other students use their house for parties or as gathering places, and become a hindrance to the community in general. These students for the most part are unable to work alone academically, and there they are stuck in the house with no one to help them. There is really no advantage that I can see giving suspension to these students, for the most part.

What is particularly noteworthy is that Mrs. Stanbury takes into consideration the special circumstances and characteristics of EMH students in determining an appropriate course of action. Although her concern may be viewed as maternalistic it is probably more fairly viewed as a realistic acknowledgment of the limits to their functional competence.

This analysis yields the following plausible hypothesis:

> *The greater the perceived educational need and social vulnerability of the student, the greater the likelihood of leniency in dealing with a referred student.*

Mrs. Stanbury: Complainant Dimension

As with Mr. Foster, Mrs. Stanbury's judgements are directly related to the wishes of the complainant (intercession) and the degree of confidence she has in the complainant's control effectiveness. Data from four cases confirm that complainant intercession is a powerful determinant of action; as such it constrains Mrs. Stanbury's discretion. Still Mrs. Stanbury goes along with the complainant's wishes.

> Mrs. Stanbury: It's perfectly alright with me. I very seldom go against the recommendation of the teacher, only when there's an extremely weak disciplinarian will I go against it.

The last statement illustrates the limit on the scope of Mrs. Stanbury's discretion and foreshadows the importance of her perception of the teacher's control effectiveness as a variable influencing her preparedness to respect or contravene

the teacher's wishes in a particular case. But within the constraint of the complainant's wishes Mrs. Stanbury makes two judgments: one concerns the teachers' intent and the other the teacher's control effectiveness.

Mrs. Stanbury draws on her knowledge of the teacher and on her "reading" of the major discipline to infer the intent of the teacher. This process is evident in four cases.

> Mrs. Stanbury: I notice that the teacher did not write forgery which means to me that she simply wants R_____ to be aware of the fact that this is wrong--that a student may not change anything regarding an official record--but that she does not necessarily want to charge the student with forgery. More than likely during the conference the student will be made aware of the fact that this is forgery and more than likely the major will be held.

Here Mrs. Stanbury infers the teacher's intent from the written major, concludes that the teacher wants awareness rather than punishment, and anticipates the likely outcome.

Related to inferring intent is Mrs. Stanbury's perception of the complainant's control effectiveness. The frequency and volume of major disciplines also colours her perception.

> Mrs. Stanbury: A teacher who rarely, rarely writes a major, her major is looked at twice and perhaps three times and you wonder, "What on earth happened?" Perhaps this is unfortunate but a teacher who is constantly writing majors, you feel that he has no other way to control the class. And this of course is unfortunate and harmful to the students. I am afraid it also colors the office. I know I tend not to be as strict with the student who received a major or minor as I am with one who received a major from a teacher who writes two a year.

Given the effect of complainant intercession on the final course of action the following conjoint hypothesis seems plausible on the basis of the data presented here:

1. *The better the perceived control effectiveness and the firmer the perceived intent of the complainant, the more likely the*

*complainant's wishes will be respected in deciding whether or not to suspend a student.*

Mrs. Stanbury: Parent Dimension

Mrs. Stanbury also makes judgments about parents when she meets them at the parent conference. The parental valuation of education and the level of parental support for the school enter her deliberations when determining the culpability of the student.

> Mrs. Stanbury: The mother is rather more difficult to understand. She doesn't seem to be the least bit worried by the fact that her daughter has lost so much time in school. ... what we're really trying to do is to put pressure on the parents to perhaps see that they take better care of their youngsters, that they do get to school. Now if we felt that this was completely C____'s fault, she would have been dropped. With the drop form previously signed, on a 16 day absence, she would have been immediately expelled from school completely. But we did feel that there is parental neglect here.

These data suggest that Mrs. Stanbury assesses student culpability in part by calculating the extent of "parental neglect." Culpability is shared between student and parent and so the student should only be held partly responsible. Here too Mrs. Stanbury's assessment of low parental concern seems to provide warrantable grounds for leniency towards the student. On this basis, the following conjoint hypothesis may be plausible:

> *The lower the perceived parental valuation of education and the lower the perceived level of parental support for the school, the less culpable the student and the greater the likelihood of leniency in dealing with a referred student.*

Figure 2 collates the hypothesized relationships generated through the preceding analysis into one diagram. In a primitive way, this diagram constitutes an analogue model of Mrs. Stanbury's exercise of discretion.

At this point, then, the analysis has produced two of these diagrams,

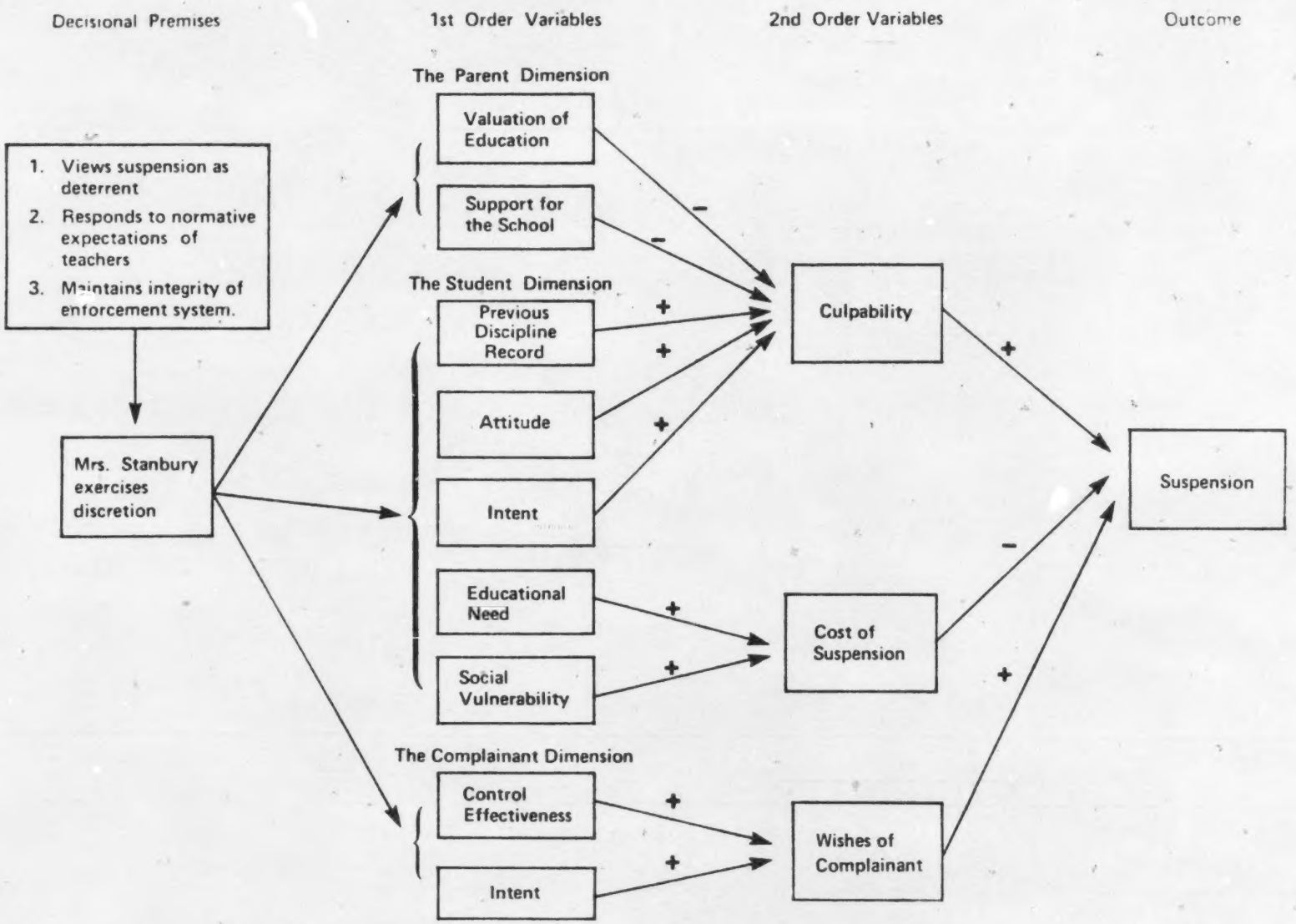


Figure 2: Model of Hypothesized Relationships in Mrs. Stanbury's Exercise of Discretion

one for each administrator. The models are not identical but do possess common elements and features. Each one displays graphically a set of relationships grounded in the data of the study and framed as plausible hypotheses. The hypotheses are labelled as plausible because they seem reasonable on the basis of the limited data used in this study. Whether or not they are more than just "plausible", whether or not they are applicable to other discipline administrators in other schools can only be established through empirical testing and further refinement. If this occurs then the models generated here will serve their purpose--to be the first, imperfect steps towards a theory of administrative discretion.

## The Pattern of Selective Enforcement

The data analyzed in the generation of the analogue models begin to account for the differences in enforcement styles between Mr. Foster and Mrs. Stanbury. Two particular explanations merit attention.

The first concerns the administrative style and decisional premises of each administrator. Mr. Foster seems to pay much more attention to the nature and gravity of the offence in assessing student culpability, whereas Mrs. Stanbury places more emphasis on student intent. Mr. Foster exercises his discretionary power of leniency less than Mrs. Stanbury and only if the student demonstrates educational commitment, whereas Mrs. Stanbury exercises her discretionary power of leniency when she considers the educational cost of suspension to the student to be too high to warrant the sanction. In sum, the two administrators, while preoccupied with order-maintenance and control to a differing degree, seem to differ most markedly because their models of the world,

their decisional premises, their assumptions of causality are differentially complex. Mr. Foster's model seems to be simpler than Mrs. Stanbury's; his decision-making style seems to be more administrative and institutional in orientation--he seems to be more concerned with the discipline infraction in terms of order-maintenance and of the possible consequences for the school's general welfare; Mrs. Stanbury's decision-making style, on the other hand, seems to be more judicial and personal in orientation--she seems more concerned with the discipline infraction in terms of individual treatment and of the possible consequences of action for the student's individual welfare.

The second explanation relates to the preoccupation of both administrators with order-maintenance and control of student conduct and is suggested by Mr. Foster's volunteered observation about the need to keep control of the student body lest institutional breakdown occur. It is that boys by virtue of their physical size and strength pose a substantially greater threat to the good order of the school than do girls. This does not, of course, deny the fact that some girls, observed during the study, are equally bellicose as some boys. Nevertheless boys in general tend to be more aggressive and rambunctious than girls and are probably perceived as more of a threat to the school as a consequence. This may explain Mr. Foster's practice of suspending boys more frequently than Mrs. Stanbury suspends girls.

These explanations, requiring further investigation as they do, seem plausible enough to be framed as hypotheses:

1. *the more prominent the discipline administrator's concern with order-maintenance (control) the greater the likelihood students will be suspended.*
2. *the more prominent the discipline administrator's concern with individual treatment the greater the likelihood students will be treated leniently and not suspended.*
3. *boys, posing as they seem to do, a greater threat to the security and good order of the school will be suspended*

*systematically more frequently than girls.*

The third and last of the three main guiding questions is whether, in the light of the findings, the discretionary power of Mr. Foster and Mrs. Stanbury needs further confining, structuring and checking. The assessment of this question examines both the defensibility of the bases of the decisions made by Mr. Foster and Mrs. Stanbury in terms of legal principles and educational considerations, and the breadth of their discretionary power. Regarding the defensibility of the bases of decisions in terms of legal principles, the conclusion is that the presence of sex-linked selective enforcement, constituting as it does prima facie discrimination on the basis of sex, violates the principle of fundamental fairness--that members of a class of persons who are similarly situated should be similarly treated--and so is indefensible. Further support for this conclusion is that Mr. Foster and Mrs. Stanbury seem to use different decision-making models and seem to place different weightings on factors associated with a given case, which suggests that students who are similarly situated are not necessarily treated similarly. In procedural terms however, the discipline procedure at Integrated High seems broadly compatible with the requirements of procedural due process as laid down by the U.S. Supreme Court in Goss v. Lopez. As for educational considerations, Mr. Foster and Mrs. Stanbury's decisions appear to be defensible--they are primarily concerned with the law enforcement, housekeeping, and protection aspects of discipline--aspects of necessary institutional control over student conduct. Regarding the breadth of Mr. Foster and Mrs. Stanbury's discretionary power, the conclusion is that sex-linked selective enforcement argues the need for adopting the discretionary justice approach to discipline; this implies further confining, structuring and checking of discretionary power.

## Importance of the Study

The importance of this ethnographic study lies in the generation of plausible hypotheses for further research. As observed earlier "[t]he real test is whether, given the exploratory nature of this study, the analysis of these data yields new knowledge, generates new concepts and explanations, and identifies new facets of the problem for further research." The preceding discussion permits assessment of the achievement of this objective. The hypotheses advanced are, in important ways, ethnographically grounded in empirical data. As such they "... account for as many of the observed facts as possible with the greatest degree of economy, simplicity, and elegance possible." [Overholt and Stallings 1976:14]. The next step is to conduct research to refine, validate and verify the plausible hypotheses forming the analogue models. Such a process requires the testing of the models on a larger sample of disciplinarians. Following modifications and further testing, such a procedure might yield a substantive model of the exercise of administrative discretion in school discipline. Successful completion of this step would open the possibility of using this substantive model, together with other relevant literature, to generate a formal theory of administrative discretion--one that could be tested and validated with administrators in a variety of institutional roles and settings.

TABLE I

RELATION BETWEEN ADMINISTRATOR AND ACTION TAKEN

(In Percentage)

| | No Suspension | Suspension | Total Cases |
|---|---|---|---|
| Mr. Foster | 33 | 67 | 99 |
| Mrs. Stanbury | 76 | 24 | 45 |

Corrected Chi-Square = 20.50 with 1 df, $p < .01$

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